

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>CHARLES TALBERT</b>	:	<b>CIVIL ACTION</b>
	:	
v.	:	<b>NO. 22-4189</b>
	:	
<b>DEPARTMENT OF CORRECTIONS, DENNIS A. BROWN</b>	:	
	:	

**ORDER**

**AND NOW**, this 23<sup>rd</sup> day of November 2022, fulfilling our obligation mandated by Congress to screen an incarcerated person's civil rights claim against state actors, and having now screened the Plaintiff's claims against a correctional officer arising from conduct on March 12, 2020 and a claim against a state police officer for filing of criminal assault charge against the then-incarcerated Plaintiff in September 2020, further mindful of Plaintiff's Motion to amend his Complaint (ECF Doc. No. 7) filed while we screened his Complaint, our November 1, 2022 Order (ECF Doc. No. 6) denying Plaintiff's request for documents pending screening but now having completed the screening, and for reasons in the accompanying Memorandum, it is **ORDERED**:

1. We allow the incarcerated Plaintiff to proceed on two claims;
2. Plaintiff's Motion to amend (ECF Doc. No. 7) is **GRANTED in** part allowing Plaintiff to proceed with his amended Complaint against: (a) Officer Dennis A. Brown in his individual capacity for damages arising solely from the excessive force claim involving March 12, 2020 conduct; and, (b) against the Department of Corrections for damages under the Americans with Disabilities Act arising from the March 12, 2020 conduct subject to further review as to the timeliness and merits of this claim;

3. We **DISMISS**:

- a. Officer Taubenberger and all claims against him **with prejudice**;
- b. All claims against Officer Brown in his official capacity **with prejudice**;
- c. All claims for injunctive relief **without prejudice**;

4. The Clerk of Court shall:

a. **file the amended Complaint** attached to the Motion (ECF Doc. No. 7) as a separate filing;

b. **issue and mail summonses** to the Plaintiff for Dennis A. Brown and the Pennsylvania Department of Corrections to allow Plaintiff to timely serve Officer Brown and the Department of Corrections;

c. **amend** the caption as above to reflect the two remaining parties;

d. provide Plaintiff three copies of the Complaint (ECF Doc. No. 2) and the amended Complaint;

5. Plaintiff must timely serve the summonses and copies of the Complaint (ECF Doc. No. 2) and amended Complaint upon each Defendant consistent with the Federal Rule of Civil Procedure 4. Plaintiff is solely responsible to request the Clerk of Court to issue an alias summons if he cannot timely affect service and failure to timely serve may require dismissal of his case for failure to timely prosecute;

6. All parties are required to follow this Court's Policies and Procedures in effect at the time of the anticipated action ("Policies") and Default Order on Electronic Discovery found at [www.paed.uscourts.gov](http://www.paed.uscourts.gov);

7. All original pleadings and other papers are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly

on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).


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(Signature)”

8. Requests for court action must be made by a filed and served motion. The parties proceeding *pro se* shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure, Local Rules and our Policies are to be followed.

9. The parties may not directly communicate with the Judge unless permitted by our Policies. All relevant information and papers are to be directed to the Clerk of Court; and,

10. The parties should notify the Clerk’s Office of an address change. Failure to do so could result in Orders or other information not being timely delivered, which could affect the parties’ legal rights.

  
KEARNEY, J.